

them such that one manufacturer has assumed a controlling stock ownership or control over the design, production or sale of vehicles. The report must also specify the first full model year to which the transaction will apply.

(b) Each report shall—

(i) Identify each manufacturer;

(ii) State the full name, title, and address of the official responsible for preparing the report;

(iii) Identify the production year being reported on;

(iv) Be written in the English language; and

(v) Be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

(c) The manufacturers may seek confidential treatment for information provided in the certified report in accordance with 49 CFR part 512.

§ 534.7 Situations not directly addressed by this part.

To the extent that this part does not directly address an issue concerning the rights and responsibilities of manufacturers in the context of a change in corporate relationships, the agency will make determinations based on interpretation of the statute and the principles reflected in the part.

PART 536—TRANSFER AND TRADING OF FUEL ECONOMY CREDITS

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AUTHORITY: Sec. 104, Pub. L. 110-140 (49 U.S.C. 32903); delegation of authority at 49 CFR 1.50.

SOURCE: 74 FR 14452, Mar. 30, 2009, unless otherwise noted.

§ 536.1 Scope.

This part establishes regulations governing the use and application of CAFE credits up to three model years before and five model years after the model year in which the credit was earned. It also specifies requirements for manufacturers wishing to transfer fuel economy credits between their fleets and for manufacturers and other persons wishing to trade fuel economy credits to achieve compliance with prescribed fuel economy standards.

§ 536.2 Application.

This part applies to all credits earned (and transferable and tradable) for exceeding applicable average fuel economy standards in a given model year for domestically manufactured passenger cars, imported passenger cars, and light trucks.

§ 536.3 Definitions.

(a) Statutory terms. All terms defined in 49 U.S.C. § 32901(a) are used pursuant to their statutory meaning.

(b) Other terms.

Above standard fuel economy means, with respect to a compliance category, that the automobiles manufactured by a manufacturer in that compliance category in a particular model year have greater average fuel economy (calculated in a manner that reflects the incentives for alternative fuel automobiles per 49 U.S.C. 32905) than that manufacturer's fuel economy standard for that compliance category and model year.

Adjustment factor means a factor used to adjust the value of a traded or transferred credit for compliance purposes to ensure that the compliance value of the credit when used reflects the total volume of oil saved when the credit was earned.

Below standard fuel economy means, with respect to a compliance category, that the automobiles manufactured by a manufacturer in that compliance category in a particular model year have lower average fuel economy (calculated in a manner that reflects the incentives for alternative fuel automobiles per 49 U.S.C. 32905) than that manufacturer's fuel economy standard for that compliance category and model year.

Compliance means a manufacturer achieves compliance in a particular compliance category when

(1) The average fuel economy of the vehicles in that category exceed or meet the fuel economy standard for that category, or

(2) The average fuel economy of the vehicles in that category do not meet the fuel economy standard for that category, but the manufacturer proffers a sufficient number of valid credits, adjusted for total oil savings, to cover the gap between the average fuel economy of the vehicles in that category and the required average fuel economy. A manufacturer achieves compliance for its fleet if the above conditions (1) or (2) are simultaneously met for all compliance categories.

Compliance category means any of three categories of automobiles subject to Federal fuel economy regulations. The three compliance categories recognized by 49 U.S.C. 32903(g)(6) are domestically manufactured passenger automobiles, imported passenger automobiles, and non-passenger automobiles (“light trucks”).

Credit holder (or holder) means a legal person that has valid possession of credits, either because they are a manufacturer who has earned credits by exceeding an applicable fuel economy standard, or because they are a designated recipient who has received credits from another holder. Credit holders need not be manufacturers, although all manufacturers may be credit holders.

Credits (or fuel economy credits) means an earned or purchased allowance recognizing that the average fuel economy of a particular manufacturer’s vehicles within a particular compliance category and model year exceeds that manufacturer’s fuel economy standard for that compliance category and model year. One credit is equal to $\frac{1}{10}$ of a mile per gallon above the fuel economy standard per one vehicle within a compliance category. Credits are denominated according to model year in which they are earned (vintage), originating manufacturer, and compliance category.

Expiry date means the model year after which fuel economy credits may no longer be used to achieve compli-

ance with fuel economy regulations. Expiry Dates are calculated in terms of model years: for example, if a manufacturer earns credits for model year 2011, these credits may be used for compliance in model years 2008–2016.

Fleet means all automobiles that are manufactured by a manufacturer in a particular model year and are subject to fuel economy standards under 49 CFR parts 531 and 533. For the purposes of this regulation, a manufacturer’s fleet means all domestically manufactured and imported passenger automobiles and non-passenger automobiles (“light trucks”). “Work trucks” and medium and heavy trucks are not included in this definition for purposes of this regulation.

Light truck means the same as “non-passenger automobile,” as that term is defined in 49 U.S.C. 32901(a)(17), and as “light truck,” as that term is defined at 49 CFR 523.5.

Originating manufacturer means the manufacturer that originally earned a particular credit. Each credit earned will be identified with the name of the originating manufacturer.

Trade means the receipt by NHTSA of an instruction from a credit holder to place one of its credits in the account of another credit holder. A credit that has been traded can be identified because the originating manufacturer will be a different party than the current credit holder. Traded credits are moved from one credit holder to the recipient credit holder within the same compliance category for which the credits were originally earned. If a credit has been traded to another credit holder and is subsequently traded back to the originating manufacturer, it will be deemed not to have been traded for compliance purposes.

Transfer means the application by a manufacturer of credits earned by that manufacturer in one compliance category or credits acquired by trade (and originally earned by another manufacturer in that category) to achieve compliance with fuel economy standards with respect to a different compliance category. For example, a manufacturer may purchase light truck credits from another manufacturer, and transfer them to achieve compliance in the

manufacturer's domestically manufactured passenger car fleet. Subject to the credit transfer limitations of 49 U.S.C. 32903(g)(3), credits can also be transferred across compliance categories and banked or saved in that category to be carried forward or backwards later to address a credit shortfall.

Vintage means, with respect to a credit, the model year in which the credit was earned.

[74 FR 14452, Mar. 30, 2009, as amended at 75 FR 25727, May 7, 2010]

§ 536.4 Credits.

(a) *Type and vintage.* All credits are identified and distinguished in the accounts by originating manufacturer, compliance category, and model year of origin (vintage).

(b) *Application of credits.* All credits earned and applied are calculated, per 49 U.S.C. 32903(c), in tenths of a mile per gallon by which the average fuel economy of vehicles in a particular compliance category manufactured by a manufacturer in the model year in which the credits are earned exceeds the applicable average fuel economy

standard, multiplied by the number of vehicles sold in that compliance category. However, credits that have been traded between credit holders or transferred between compliance categories are valued for compliance purposes using the adjustment factor specified in paragraph (c) of this section, pursuant to the "total oil savings" requirement of 49 U.S.C. 32903(f)(1).

(c) *Adjustment factor.* When traded or transferred and used, fuel economy credits are adjusted to ensure fuel oil savings is preserved. For traded credits, the user (or buyer) of credits must multiply the calculated adjustment factor by the number of its shortfall credits it plans to offset in order to determine the number of equivalent credits to acquire from the earner (or seller). For transferred credits, the user of credits must multiply the calculated adjustment factor by the number of its shortfall credits it plans to offset in order to determine the number of equivalent credits to transfer from the compliance category holding the available credits. The adjustment factor is calculated by the following formula:

$$A = \left(\frac{VMT_u * MPG_{ac} * MPG_{se}}{VMT_e * MPG_{au} * MPG_{su}} \right)$$

Where *A* = Adjustment Factor applied to traded or transferred credits;

VMT_e = Lifetime vehicle miles traveled as provided in the following table for the model year and compliance category in which the credit was earned.

VMT_u = Lifetime vehicle miles traveled as provided in the following table for the model year and compliance category in which the credit is used for compliance.

Model year	Lifetime Vehicle Miles Traveled (VMT)				
	2012	2013	2014	2015	2016
Passenger Cars	177,238	177,366	178,652	180,497	182,134
Light Trucks	208,471	208,537	209,974	212,040	213,954

MPG_{se} = Required fuel economy standard for the originating (earning) manufacturer, compliance category, and model year in which the credit was earned;

MPG_{ae} = Actual fuel economy for the originating manufacturer, compliance category, and model year in which the credit was earned;

MPG_{su} = Required fuel economy standard for the user (buying) manufacturer, compliance category, and model year in which the credit is used for compliance;

MPG_{au} = Actual fuel economy for the user manufacturer, compliance category, and